



STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

TELECOMMUNICATIONS

IN THE MATTER OF THE PETITION FOR AN)
ORDER AUTHORIZING BROADVIEW NP)
ACQUISITION CORP. d/b/a BROADVIEW)
NET PLUS TO PROVIDE LOCAL EXCHANGE)
TELECOMMUNICATIONS SERVICES)
THROUGHOUT NEW JERSEY)

ORDER OF APPROVAL

DOCKET NO. TE02040253

(SERVICE LIST ATTACHED)

BY THE BOARD:

By letter dated April 17 2002, Broadview NP Acquisition Corp. d/b/a Broadview Net Plus (Petitioner or Broadview) filed a petition with the Board of Public Utilities (Board) requesting authority to provide local exchange telecommunications services throughout the State of New Jersey. Petitioner submitted a completed Staff questionnaire as Exhibit A of its petition and responded to Staff interrogatories by letter dated May 3, 2002 and July 10, 2002. Petitioner requested confidential treatment of the financial statements, ownership information and customer forecasts in Exhibits F and G of its petition. In support of this request, Petitioner submitted a motion and an affidavit dated July 10, 2002 from Kenneth Shulman, a corporate officer, stating that allowing the public access to this information would cause immediate harm to the competitive position of Broadview.

According to the petition, Petitioner was incorporated under the laws of the State of Delaware on September 5, 2000. Petitioner's principal offices are located at 59 Maiden Lane, 27th Floor, New York, New York 10038. Petition at 3.

Petitioner submitted copies of its Articles of Incorporation, Delaware Certificate of Good Standing and its New Jersey Certificate of Authority to Operate as a Foreign Corporation. Petition at 2, Exhibits B and C, May 3, 2002 letter. According to the petition, Broadview was formed to provide local exchange services. Petition at 1. Petitioner is a newly formed entity and as such is not currently authorized to provide service in any jurisdiction. Petition, Exhibit A.

Broadview advised that it has not been denied authority to provide telecommunications services in any state. Broadview advised that it is currently negotiating an interconnection agreement with Verizon New Jersey.

In its petition, Petitioner advised that it seeks authority to offer local exchange telecommunications services to residential and business customers throughout New Jersey. Broadview intends to provide service that will include but not be limited to local exchange access services to single-line and multi-line customers, local exchange service to customers of Broadview's end-user access line services, and dedicated and special carrier access services to other common carriers. Petition at 4. Broadview intends to provide services using resale, UNEs and UNE-Ps as market conditions warrant. Petition at 4.

Petitioner requested a waiver of N.J.A.C. 14:1-4.3, 14:1-5.15 and 14:10-1.16 which require that its books and records be maintained in accordance with the Uniform System of Accounts (USOA) and within the State of New Jersey. Petitioner requested, in the interest of efficiency and to prevent undue burden, permission to maintain its books and records in accordance with Generally Accepted Accounting Principles (GAAP). Petition at 7. Petitioner also requested permission to keep all books, records, documents and other writings incident to the conduct of Petitioner's business in the State of New Jersey at Petitioner's corporate offices in New York, New York. Petition at 8. Petitioner also stated that, upon written notice from the Board, it will produce its books and records at such time and place within New Jersey as the Board may designate and will pay any reasonable expenses for examination of the records. Petition at 8.

Petitioner asserted that approval of its petition will further the public interest by expanding the availability of competitive telecommunications services in the State of New Jersey. Petition at 9. Petitioner also asserted that approval of this petition will provide New Jersey customers with access to new technologies and service choices and will permit customers to achieve increased efficiencies and cost savings. Petition at 9.

With regard to its technical and managerial qualifications, Broadview stated that it possesses the technical capability and managerial qualifications to operate and manage its telecommunications operations in the State of New Jersey. Petition at 5. Petitioner submitted the professional biographies of its key personnel who, according to Broadview, are well qualified to execute its business plans, and have extensive managerial and technical experience in the telecommunications industry. Petition at 5, Exhibit E.

Petitioner has submitted, as evidence of its financial qualifications, its balance sheet and income statement as of March 2002 and its pro forma financials through the end of 2004.

DISCUSSION

On February 8, 1996, the federal Telecommunications Act of 1996, P.L. 104-104, 110 Stat.56, codified in scattered sections of 47 U.S.C. §151 et. seq., was signed into law, removing barriers to competition by providing that:

[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service.

[47 U.S.C. §253(a)].

Therefore, Board approval of Petitioner's entry into the telecommunications marketplace is required, assuming Petitioner meets all other requirements, including, but not limited to, a demonstration of financial, technical and managerial integrity.

In considering this petition, the Board recognizes its obligation not to prohibit entry into intrastate telecommunications markets. 47 U.S.C. §253(a). Approval is also in keeping with the New Jersey State Legislature's decision that it is the policy of the State to provide diversity in the supply of telecommunications services, and its findings that competition will "promote efficiency, reduce regulatory delay and foster productivity and innovation" and "produce a wider selection of services at competitive market-based prices." N.J.S.A. 48:2-21.16(a)(4); N.J.S.A. 48:2-21.16(b)(1) and (3).

Therefore, having reviewed Broadview's petition and the information supplied in support thereof, the Board FINDS that Petitioner has demonstrated that it possesses the requisite financial, technical and managerial resources, which are necessary to provide telecommunications services in New Jersey. Accordingly, the Board HEREBY AUTHORIZES Petitioner to provide local exchange telecommunications services in New Jersey subject to approval of its tariff. The Board notes that Petitioner will not be able to provide telecommunications services until a tariff is approved by the Board.

Regarding the Petitioner's request for waivers of Board rules, the Board FINDS that the Petitioner has demonstrated good cause why the Board should grant relief from its requirements that Petitioner maintain its books and records under the USOA and within New Jersey. Therefore, subject to the Petitioner's continuing responsibility to provide the Board its books and records upon 48 hours notice, and in the manner requested, and to pay to the Board any reasonable expenses or charges incurred by the Board for any investigation or examination of these books and records, the Board APPROVES Petitioner's request for the exemptions from maintaining its books and records in New Jersey and under the USOA.

Regarding the Petitioner's request for confidential treatment of the financial information submitted as Exhibit F and G, the Board FINDS that the Petitioner has shown good cause that the information merits protection in order to prevent competitive harm by revealing Broadview's financial statements, ownership information and customer forecasts. Accordingly, the Board GRANTS the Petitioner's motion to keep confidential the information contained in Exhibit F and G. The Board also FINDS that the information is confidential under the Open Public Record Act, N.J.S.A. 47:1A-1 et seq., as amended by P.L. 2001, c. 404.

DATED: 8/08/02

BOARD OF PUBLIC UTILITIES
BY:

(signed)
JEANNE M. FOX
PRESIDENT

(signed)
FREDERICK F. BUTLER
COMMISSIONER

(signed)
CAROL J. MURPHY
COMMISSIONER

(signed)
CONNIE O. HUGHES
COMMISSIONER

ATTEST:

(signed)
KRISTI IZZO
SECRETARY